

Edwin J. Wilson, Jr. (Bar No. 48881)  
Kurt C. Wendlenner (Bar No. 238434)  
**WENDEL, ROSEN, BLACK & DEAN LLP**  
1111 Broadway, 24th Floor  
Post Office Box 2047  
94604-2047 Oakland, CA 94607-4036  
Telephone: (510) 834-6600  
Fax: (510) 834-1928  
  
Attorneys for Defendant  
Port of Oakland

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TERRY BROWN,  
  
Plaintiff,

vs.

PORT OF OAKLAND,  
  
Defendant.

Case No. C 08-02358SI

**[PROPOSED] ORDER GRANTING  
MOTION TO DISMISS PURSUANT TO  
FED. R. CIV. P. 12(b)(6)**

**Date: July 25, 2008**  
**Time: 9:00 a.m.**  
**Courtroom: 10, 19<sup>th</sup> Floor**

The Motion to Dismiss Pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) of defendant Port of Oakland ("Defendant"), came on regularly for hearing on July 25, 2008, at 9:00 a.m. in Courtroom 10 of the above-entitled Court. After full consideration of Defendant's Motion, the papers submitted by the parties in support and in opposition thereto, and the arguments presented,

IT IS HEREBY ORDERED, DECREED AND AJUDGED that:

1. Defendant's Motion to Dismiss is GRANTED in its entirety.
2. The Court finds that Plaintiff has failed to state a claim upon which relief could be granted and failed to exhaust administrative remedies within the applicable statutes of limitation.

///

///

3. Plaintiff Terry Brown's entire Complaint is hereby dismissed.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Honorable Susan Illston  
United States District Court  
Northern District of California

Wendel, Rosen, Black & Dean LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607-4036

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28